



IOWA GENERAL ASSEMBLY

Administrative Rules Review Committee

THE RULES DIGEST

March
2014

Scheduled for Committee review
Friday, April 04, 2014
Room #116

Reference
XXXVI IAB No. 18(03/05/14)
XXXVI IAB No. 19(03/19/14)
XXXVI IAB No. 20(04/02/14)

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HUMAN SERVICES DEPARTMENT

9:10

Medicaid overuse lock-in, 03/05/14 IAB, ARC 1354C, ADOPTED.

This rulemaking re-adopts a lock-in program that was inadvertently omitted in a prior rulemaking. Federal regulations and Iowa law allow for the “lock-in” of Medicaid beneficiaries who over-utilize Medicaid services, restricting the beneficiaries to obtaining services from designated providers. A lock-in or restriction shall be imposed for a minimum of 24 months with longer restrictions determined on an individual basis.

Overuse of services is defined as receipt of treatments, drugs, medical supplies or other Medicaid benefits from one or multiple providers of service in an amount, duration, or scope in excess of that which would reasonably be expected to result in a medical or health benefit to the patient.

HUMAN SERVICES DEPARTMENT

9:10

Iowa Health and Wellness Plan, 03/05/14 IAB, ARC 1354C, ADOPTED.

This filing was initially reviewed by the Committee in January as an emergency filing; it implements a federal waiver by the Centers for Medicare and Medicaid Services allowing eligibility determinations for current IowaCare members based on income verified by food assistance applications, income verified on Medicaid cases associated with the IowaCare member, Iowa Workforce Development (IWD) wage and

unemployment insurance benefits, and income data received from the federal government.

Individuals who were IowaCare members on October 1, 2013, will be evaluated for eligibility for the Iowa Health and Wellness Plan (IHAWP). The members who meet the eligibility requirements, including family income of no more than 138 percent of the federal poverty level (FPL), will be enrolled in the Iowa Health and Wellness Plan effective January 1, 2014. This will allow an estimated 55,000 members to transition directly from IowaCare to IHAWP. Those members who are not eligible for IHAWP or the Family Medical Assistance Program (FMAP) with children will be informed that they will need to apply for new health assistance.

ECONOMIC DEVELOPMENT AUTHORITY

9:45

Iowa Tourism Grant Program, 03/19/14 IAB, ARC 1380C, NOTICE.

The Iowa Tourism Grant Program is intended to fund tourism-related marketing initiatives and meetings, events, and professional development efforts. The minimum grant is \$500 and the maximum grant is \$5000. Applicants must provide a 25% cash match.

Only expenditures directly related to the implementation of a tourism-related marketing project or a meeting, an event or a professional development project will be reimbursed under the program. Ineligible expenses include: solicitation efforts; lobbying fees; items purchased for resale; prizes given to participants or attendees; alcoholic beverages; internships; all travel, meal and lodging costs; and projects already receiving DEA funding or other support.

The DEA has established a point system to evaluate applications; these applications will be reviewed by a review committee consisting of members of the Iowa tourism industry.

EDUCATIONAL EXAMINERS BOARD

10:10

Board Decision to Set Case for Hearing, 03/19/14 IAB, ARC 1378C, NOTICE.

This rulemaking states that the Board “may,” rather than “shall,” set a case for hearing if there is probable cause of a violation of the Code of Professional Conduct and

Ethics. The rulemaking also sets forth factors for the Board to consider in determining whether to set a case for hearing. The factors are whether the alleged violation is of sufficient magnitude to warrant a hearing by the board; whether there is sufficient evidence to support the complaint; whether the alleged violation was an isolated incident; and whether adequate steps have been taken at the local level to ensure similar behavior does not occur in the future.

CHILD ADVOCACY BOARD

11:10

Court appointed special advocates (CASA) training program, 03/19/14 IAB, ARC 1375C, ADOPTED.

The CASA program operates throughout the state and provides advocates for children who have been abused or neglected, are under court jurisdiction, and are often placed in out-of-home care. The CASA advocate is a volunteer who has been certified by the child advocacy board for participation in the CASA program. An advocate can be appointed by the court to represent the interest of a child in any judicial proceeding to which the child is a party or is called as a witness. Advocates receive at least 30 hours of pre-service training.

The new chapter formalizes requirements for the selection and screening of volunteers, pre-service training, ongoing education, and assignment and supervision of volunteers who serve as court appointed special advocates. Volunteer advocates are supported by coaches--other advocates who have more than two years of experience; these coaches can provide support for up to ten volunteers and provide oversight.

INSURANCE DIVISION

11:35

Pharmacy benefits manager, 04/02/14 IAB, ARC 1295C, RE-NOTICE.

Code Chapter 510B regulates pharmacy benefits managers; these individuals administer or manage prescription drug benefits provided by an insurer, health benefit plan, health maintenance organization, or similar third-party payor program. Managers coordinate the policy benefit between the insured, the pharmacy provider network, and the insurer. Rulemaking initially began in January, 2008, with an effective date in September 2008. The rules relate to recordkeeping, auditing procedures, complaint procedures, and conditions of terminating a pharmacy agreement. The statute specifically requires rulemaking for timely payment of pharmacy claims and for a

process for adjudication of complaints and disputes. The current rules provide for an audit of the pharmacy records by a pharmacy benefits manager. A previous notice, published in January, has been terminated.

This proposal sets out detail for handling reimbursement errors:

- Such a determination must be based on the actual error and not be based on a projection of the number of patients served having a similar diagnosis or on a projection of the number of similar orders or refills for similar prescription drugs.
- Error calculation does not include dispensing fees unless: prescriptions were not actually dispensed, the prescriber denied authorizations, the prescriptions dispensed were medication errors by the pharmacy, or the amounts of the dispensing fees were incorrect.
- An error of the pharmacy, is not considered fraud.
- If an error that has no actual financial harm to the patient or covered entity, the pharmacy benefits manager shall not assess a charge against the pharmacy.
- If a pharmacy has entered into a corrective action plan errors that are a result of the pharmacy's failure to comply with such plan may be subject to recovery.
- Interest may not accrue during the audit period for either party.

The current rules provide for an audit of the pharmacy records by a pharmacy benefits manager. In these amendments, as part of the audit process, if a pharmacy requests an independent third-party review of the final audit findings, and if the audit report is found to be substantiated, the cost of the third-party review shall be paid by the pharmacy, or if the audit report is found to be unsubstantiated, the cost of the third-party review shall be paid by the pharmacy benefits manager.

The proposal sets out a process to terminate the contract between a pharmacy and the benefits manager, with at least 60 days notice. The proposal prohibits the termination of a contract in retaliation for filing a complaint, grievance or appeal.

PUBLIC HEALTH DEPARTMENT

11:40

Vital Records--Overpayment of Fees, 04/02/14 IAB, ARC 1402C, ADOPTED.

In response to concerns expressed by the Committee, the Department has adopted this rulemaking, which provides that the Department will only retain an overpayment of a fee to obtain a copy of a vital record if the amount of the overpayment is \$5 or less.

REVENUE DEPARTMENT

12:20

Business Property Tax Credit, 03/19/14 IAB, ARC 1382C, ADOPTED.

This rulemaking implements 2013 Acts, SF 295, Division I, which created in new Iowa Code chapter 426C a business property tax credit available to certain properties classified as commercial, industrial or railroad. The rulemaking includes application and appeals processes, auditing authority, eligibility criteria, and specifications for how the credit will be applied. To be eligible for the credit, all parcels of a property unit must be located within the same county; the same property classification; owned by the same person; contiguous as defined by rule; and operated by that person for a common use and purpose.

REVENUE DEPARTMENT

12:20

Reinvestment Districts Program, 03/05/14 IAB, ARC 1363C, NOTICE.

A companion set of rules was adopted by the Economic Development Authority in 2013; it was not controversial. Both sets of rules implement 2013 Iowa Acts, House File 641. This new program, the Iowa Reinvestment Act, provides up to \$100 million in certain state hotel and motel and sales tax revenues to be “reinvested” into designated reinvestment districts. The program allows municipalities to designate an area of up to 25 acres within the corporate boundary as reinvestment districts and to use new tax revenues collected within the district to finance the development of projects within the district. The area must consist of contiguous parcels and not exceed 25 acres in total. Eligible projects must be of a unique nature and must be likely to have a substantial beneficial impact on the economy of the state and the economy of the municipality. At least one of the projects must include a capital investment of at least \$10 million.

Under the Act, a state reinvestment district fund is established in the state treasury under the control of the department consisting of the new state sales tax revenues collected within each district and the new state hotel and motel tax revenues collected within each district. The department calculates the state sales tax and hotel and motel tax funding under the program and remits that funding to governmental entities with eligible districts. The amount of new tax revenue is the product of the amount of sales subject to the sales tax in the district during the quarter from “new retail establishments”, multiplied by 4 percent. The amount of new state hotel and motel tax

revenue is the product of the amount of sales subject to the state hotel and motel tax in the district during the quarter from “new lessors”, multiplied by the state hotel and motel tax rate.

20 years after the district’s commencement date, the department will cease deposits of tax revenues into the district’s account within the fund, unless the municipality dissolves the district by ordinance prior to that date. Once the maximum benefit amount approved by the board for the district has been reached, the department will cease deposits of new tax revenues into the district’s account.

VETERINARY MEDICINE BOARD

12:50

Veterinary practice standards, 03/19/14 IAB, ARC 1377C, NOTICE.

This proposal updates and expands the current veterinary practice standards. The rule adds additional requirements relating to recordkeeping, packaging, and dispensing of certain veterinary drugs. Recordkeeping requirements are significantly expanded; each record of a controlled substance which is dispensed must meet all federal and Iowa board of pharmacy regulations for the controlled substances log. Patient records must be maintained for five years, available for inspection by the client during normal business hours. A copy must be provided to the client not later than two business days from the request.

The rules also set basic physical standards for the veterinary facilities, and safety and sanitation practices. Standards include specifications for hospital facilities, examination rooms, and mobile facilities.